

Reasoned opinion from the Swedish Parliament

The Riksdag has examined the European Parliament's proposal for a Council Regulation on the election of the members of the European Parliament by direct universal suffrage, repealing Council Decision (76/787/ECSC, EEC, Euratom) and the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to that decision (P9 TA(2022)0129).

The Riksdag initially notes that the proposal for a regulation constitutes such a draft legislative act that is covered by the provisions regarding subsidiarity under Article 5 of the Treaty on European Union and the application of the principles of subsidiarity and proportionality. The European Parliament sent the proposal for a regulation to the Riksdag on 19 May 2022. In this connection, no information was presented stating that the procedure stated in the Protocol on the application of the principles of subsidiarity and proportionality had begun or that the Riksdag had the possibility within eight weeks to submit a reasoned opinion containing the reasons for the Riksdag's assessment that the draft in question is not compatible with the principles of subsidiarity. However, in the preamble to the resolution, it is stated that a suitable method for reforming European electoral law should be based on respect for the principles of subsidiarity and proportionality and the introduction of common minimum standards. In the preamble to the proposal for a regulation, there is a description of the ways in which the proposal complies with the principles of subsidiarity and proportionality.

In the earlier proposal for amendments to the Election Act which the European Parliament submitted in 2015, there was no information either that the procedure for subsidiarity checking had been initiated or that the Riksdag had the opportunity to submit a reasoned opinion.

The Riksdag submitted a reasoned opinion in 2015/16 with points of view concerning both the procedure and subsidiarity (Statement 2015/16:KU27, Riksdag communication 2015/16:135).

The Riksdag maintains its earlier assessment that the absence of information of this kind can lead to uncertainty among the EU's national parliaments as to whether a draft is covered by provisions regarding subsidiarity checking in the treaty and from which dates the eight-week time limit for submitting a reasoned opinion is to be calculated. In order to safeguard the national parliaments' right to examine whether draft legislation is compatible with the principle of subsidiarity, all legislative acts that are sent to national parliaments, regardless of the institution of the sender, must be accompanied by such information.

According to the subsidiarity principle, the Union will, in areas which do not fall within its exclusive competence, act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states themselves, and can therefore, by reason of the scale or effects of the proposed action, be better achieved at EU level.

The Election Act is based on the underlying idea that the procedure for elections to the European Parliament should essentially follow the same rules that apply to national elections. The Riksdag considers as before that this is a good and appropriate procedure. The various forms for how elections are to be carried out must be permitted to differ in the various member states. The fact that the citizens are well familiar with them is of great importance for upholding faith in democracy and election procedures and this contributes to maintaining confidence in election procedures. Like the Government, the Riksdag thus considers that the current procedures contribute to upholding the voters' confidence in the fact that the election is carried out in a secure fashion and that the result is reliable, which in turn helps to strengthen the democratic legitimacy of the various elections in every member state.

A point of departure for the subsidiarity check should thus be that the regulation is applied to as great an extent as possible at national level. In the opinion of the Riksdag, as before only the basic provisions on election to the European Parliament should be regulated in Union law.

The Riksdag notes that a number of the proposals in the regulation that is now proposed to replace the Election Act are more far-reaching and detailed than similar proposals for amendments to the Election Act that were put forward previously. Furthermore, it has been noted that several of these proposals have not been implemented due to a lack of support among member states.

The Riksdag considers as before that the objectives of several of the proposed measures can better be achieved by the member states. The Riksdag wishes to point out in particular that the inner life of the political parties does not need to be regulated at EU level, for example what political parties should take into consideration when selecting candidates. It should be the task of every party to decide itself how candidates are to be selected. Furthermore, the Riksdag considers that there is no reason at EU level to regulate how election campaigns are to be run, for example when an election campaign may be started and what should be contained in election campaign material. The same applies to the proposed ban on carrying out opinion polls during a certain period. The Riksdag's assessment is that the regulation could constitute a limitation of basic rights and freedoms. Under all circumstances, such a regulation should, if it is to be regarded as reasonable, be at the national level and be formulated on the basis of the preconditions prevailing in each member state.

Overall, the Riksdag finds that the proposal conflicts in several respects with the principle of subsidiarity. Introducing a detailed regulation for the procedures for elections to the European Parliament at EU level may, in the opinion of the Riksdag, have the opposite effect to what was intended and result in reduced confidence and a lower turnout.